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**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

CAMERON KLOPP,

Defendant and Appellant.

2d Crim. No. B267309
(Super. Ct. No. 2012012446)
(Ventura County)

Cameron Klopp was subject to postrelease community supervision (PRCS) when he was arrested. (Pen. Code, § 3451.)[1] He had an informal probable cause hearing before a probation officer. Subsequently, the trial court found him in violation of PRCS. He contends, among other things, that the trial court erred because the PRCS revocation process violated his right to due process. We affirm.

[1] All statutory references are to the Penal Code.

FACTUAL AND PROCEDURAL BACKGROUND

On June 28, 2012, Klopp pled guilty to possession of a billy club, a blackjack, slungshot and other prohibited items. (§ 22210.) He was placed on probation for 36 months and ordered to serve 86 days in county jail. In 2014, his probation was terminated for probation violations and he was sentenced to 16 months in state prison.

On January 24, 2014, Klopp was released on PRCS.

On August 11, 2015, Klopp was arrested for violating his PRCS terms.

On August 13, 2015, a probable cause hearing was held before Probation Officer Venessa Meza who found probable cause that Klopp violated his PRCS conditions.

On August 19, 2015, the Ventura County Probation Agency filed a petition to revoke PRCS and scheduled a hearing date for August 27, 2015.

On August 27, 2015, Klopp filed a motion to dismiss the petition. Citing *Williams v. Superior Court* (2014) 230 Cal.App.4th 636 (*Williams*) and *Morrissey v. Brewer* (1972) 408 U.S. 471 (*Morrissey*), he claimed the PRCS revocation procedure violated his due process rights.

On August 27, 2015, the trial court denied the motion and found the probable cause hearing and the PRCS procedure did not violate his due process rights.

On September 2, 2015, the trial court held a PRCS revocation hearing. Klopp submitted on the allegations of the petition. The court found the allegations in the petition to be true. It ordered Klopp to serve 90 days in the county jail.

DISCUSSION

Klopp contends, among other things, that: 1) he did not have a probable cause hearing that complied with *Morrissey* standards, 2) the PRCS process violates *Williams* and Proposition 9, and 3) the probation officer did not conduct a valid fact finding probable cause hearing and is not neutral.

The PRCS procedures here did not violate Klopp's equal protection or due process rights. (*People v. Gutierrez* (2016) 245 Cal.App.4th 393, 402-404; see also *People v. Byron* (2016) 246 Cal.App.4th 1009, 1014-1017.) After his arrest for violating PRCS conditions, Klopp received a prompt probable cause hearing. (*Gutierrez*, at p. 402.) The PRCS hearing officers who decide probable cause are neutral decision makers. (*Morrissey v. Brewer*, *supra*, 408 U.S. at p. 485 ["someone not directly involved in the case"]; *Gutierrez*, at p. 402.) PRCS procedures and Proposition 9 parole procedures involve different types of offenders and different procedures. (*Gutierrez*, at pp. 403-404.) There are valid justifications for the different procedures. (*Ibid.*)

Consequently, "there is no requirement that the PRCS revocations and parole revocations use the identical procedure or timeline." (*People v. Byron*, *supra*, 246 Cal.App.4th at p. 1017.) Klopp relies on *Williams*. But "*Williams* is not a PRCS case and did not consider the due process requirements for a PRCS revocation." (*Byron*, at p. 1016.) "The requirement for a formal arraignment in the superior court within 10 days of arrest, as discussed in *Williams*, does not apply to PRCS revocations." (*Id*. at p. 1017.)

Klopp now raises challenges about how Meza conducted the probable cause hearing and her neutrality. He contends he was not advised of his rights before or during that

hearing and he did not receive a PRCS advisement of rights form. But he did not testify or present evidence in the trial court to prove and preserve these claims. (*People v. Vines* (2011) 51 Cal.4th 830, 867.)

The People correctly note that, other than a *Morrissey/Williams* argument, the only issue his counsel raised at the motion to dismiss hearing was the claim that probation "attempted to secure a waiver prior to filing a petition" to revoke PRCS. The new issues Klopp raises on appeal are forfeited. (*People v. Vines*, *supra*, 51 Cal.4th at p. 867 [claims on appeal are forfeited where they are not initially raised in the trial court].)

Moreover, the probation officer's written report for revocation lists the PRCS violations with a factual summary. It shows that Klopp "declined to waive a formal Court Hearing" and that he did not make any incriminating statements. Klopp was advised of his "right to counsel," and he requested counsel. He did not waive his right to contest any alleged PRCS violation at the revocation hearing.

Klopp was represented by counsel at the motion to dismiss and revocation hearings. "The hearing on the motion to dismiss was tantamount to a second probable cause hearing." (*People v. Byron*, *supra*, 246 Cal.App.4th at p. 1017.) The probable cause hearing before Meza was "the functional equivalent of an arraignment and a probable cause ruling." (*Ibid.*) "Assuming, arguendo, that *Williams* applies to PRCS revocation hearings, appellant received functionally equivalent protections and any deviation in the timing or substance of the hearings was harmless beyond a reasonable doubt." (*Ibid.*)

Moreover, the denial of a *Morrissey*-compliant probable cause hearing does not warrant reversal unless it

results in prejudice at the revocation hearing. (*In re La Croix* (1974) 12 Cal.3d 146, 154-155.) Klopp makes no showing that a due process defect prejudiced him or affected the outcome of the PRCS revocation hearing. (*In re Moore* (1975) 45 Cal.App.3d 285, 294; see also *In re Winn* (1975) 13 Cal.3d 694, 698 [defendant has the burden of showing prejudice].) Klopp was represented by counsel at the revocation hearing and he submitted on the allegations of the petition. He has served the custodial sanction. "[T]here is nothing for us to remedy . . . ." (*Spencer v. Kemna* (1998) 523 U.S. 1, 18.) We have reviewed his remaining contentions and we conclude he has not shown grounds for reversal.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J.

TANGEMAN, J.

Donald D. Coleman, Judge

Superior Court County of Ventura

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Wayne C. Tobin, under appointment by the Court of Appeal, for Defendant and Appellant.

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